

REMARKS

Claims 12-14, 16-22, 26-29 and 33-38 are pending. No claim amendments are made herein.

Claims 12-14, 16-22, 26-29, and 33-38 remain rejected under 35 USC § 102 (b) as being anticipated by Soma et al (US 5,494,819), as evidenced by Inagawa et al (Homeostasis as regulated by activated macrophage. II. LPS of plant origin other than wheat flour and their concomitant bacteria, Chem. Pharm. Bull. 40 (4) 994-997, 1992). (September 29, 2009 Office Action, page 2)

The applicant respectfully rebuts the rejection over Soma and Inagawa by showing, with data in the attached Inventor's Declaration, that the incubation procedure for wheat flour in the *Homeostasis*, Chem. Pharm. Bull. 40 (4) 994-997, (1992) paper does not mean a culture for bacteria.

The Declaration provides bacteria growth observation tests of wheat flour suspension according to the method in *Homeostasis*. Afterwards, photos were taken of the Wheat Flour at 6 hours and of Ecoli at 0 and 6 hours. The number of bacteria in wheat flour sample and control culture with LB medium are shown in Table 1. The bacterial number in LB medium increased more than 30 times after 6 hours of incubation, but there is no change in the wheat flour sample.

Table 1. The number of bacteria number in the wheat flour sample

	E. coli in LB medium	Wheat flour
0h	11±6 (million/ml)	18±6 (million/g)
6h	365±20 (million/ml)	8±8 (million/g)
8h	473±7 (million/ml)	13±5 (million/g)
45h	not tested	18±8 (million/g)

The raw data results indicate that the incubation procedure for wheat flour does not mean or create a culture for bacteria.

The data provided shows that the combination of references fails to anticipate a simultaneous culturing said facultative anerobic gram-negative bacterium in a medium containing

no component derived from animal. Thus it is respectfully requested that the rejection be reconsidered and withdrawn.

In view of the above remarks, applicant believes the pending application is in condition for allowance.

In view of the above amendment, applicant believes the pending application is in condition for allowance. The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 04-1105.

Dated: March 11, 2010

Respectfully submitted,

Customer No. 21874

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Nishizawa Declaration March 2, 2010 (8 pages)